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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,322	03/22/2004	Tom Testa	TES-0003	1746
23413	7590	05/21/2007		
CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			EXAMINER ARK, DARREN W	
			ART UNIT 3643	PAPER NUMBER
			MAIL DATE 05/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/806,322

Applicant(s)

TESTA, TOM

Examiner

Darren W. Ark

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 16, 21 and 26-31 is/are pending in the application.
- 4a) Of the above claim(s) 21, 30 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 16 and 26-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 21, 30, 31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/14/2005.

### *Drawings*

2. The drawings were received on 3/21/2007. These drawings are approved by the Examiner.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-10, 16, 26-28 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lirette 4,587,757.

Lirette discloses a fishing rod shaft portion (11) including a butt portion (inside 32) and a reel seat portion (portion receiving reel in Fig. 2); a rigid (12 can be made of metal) fishing accessory ring with a first aperture (32) configured to selectively engage a portion of the butt portion (see Fig. 2) such that the accessory ring is prevented from

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movement along the long axis of the rod by a securing member (36); a second aperture (one of 16) rigid enough to engage a safety line or a harness line (16 are made of flexible material, but no particular threshold or value of rigidity is being recited, furthermore any line is capable of engaging 16 via its aperture); a third aperture (other of 16 or 52); wherein the first, second, and third materials form a contiguous ("contiguous" defined as "1. Sharing a boundary or edge: TOUCHING.") article; and a rod shaft (of 11), a butt portion (of 11), and reel seat portion (of 11).

Lirette also discloses a first material surrounding the shaft (32) and a second material defining an aperture (16). Also in regard to claim 1, Lirette discloses the securing member comprising a threaded member (36 is a threaded bolt).

In regard to claim 26, Lirette discloses the accessory ring (32) installed on or capable of being installed on a reel seat portion (rearward portion of the rod including the butt and where reel is mounted; no particular structure being recited).

In regard to claims 27 and 28, Lirette discloses the securing member (36) capable of abutting the accessory ring (32) against a reel seat hood or reel tab (positioning of 36 is such that 32 is capable of abutting against the claimed structures; no particular configuration is being positively, structurally recited).

5. Claims 1-10, 16, 26-28 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ferguson 1,719,695.

Ferguson discloses a rod (see Fig. 1) with a shaft portion (10; rod not particularly claimed), a butt portion (lower end of 10 where 15 is engaged), and a reel seat portion (at 18 where 22 are engaged); a first aperture (at 17) capable of engaging a portion of

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the rod butt or reel seat portion (10 has such structure) such that the ring is prevented from movement along the long axis of the rod by a securing member (13, 17) which is a threaded member (ends of 13 engage 14); a second aperture (at one of 16); a third aperture (other of 16); wherein the first, second, and third materials form a contiguous (see Fig. 2) article.

Ferguson also discloses a first material surrounding the shaft (at 17), a second material defining an aperture (at 16).

In regard to claims 26-28, Ferguson disclose the accessory ring (16, 17) capable of being installed on a reel seat portion and capable of abutting the ring against a reel seat hood or a reel tab (no particular distinguishing structure being recited).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-9, 16, 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Byington 309,028 in view of Phelps 5,564,215.

Byington does not disclose the securing member being a threaded member. Phelps discloses a first aperture (defined by 10) prevented from moving along the axis of the rod adjacent a reel seat (14AA) and rod butt (14A) by a threaded securing member (12). It would have been obvious to one having ordinary skill in the art at the

time of the invention to modify the device of Byington such that it is prevented from moving along the axis of the rod by a threaded securing member in view of Phelps in order to reliably maintain the position of the accessory ring adjacent the fishing reel so that the angler is provided with a convenient location to secure the hook.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Byington 309,028 in view of Phelps 5,564,215 as applied to claim 2 above, and further in view of Hopkins 3,839,811.

Byington and Phelps do not disclose the second and third apertures being substantially circular in cross section. Hopkins discloses an aperture (18, 22) for retaining a hook (H) which is substantially circular in cross section (see Figs. 2, 6). It would have been obvious to a person of ordinary skill in the art to modify the second and third apertures of Byington and Phelps such that they are substantially circular in cross section in view of Hopkins in order to provide apertures which fully encircle the hooks retained therein so as to assuredly prevent the hooks from easily disengaging.

9. Claims 1-10, 16, 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sokolik 2,556,403 in view of Phelps 5,564,215.

Sokolik discloses an elastic fishing accessory ring comprising a first aperture (defined by 14b in Fig. 3); a second aperture (one of 23b); a third aperture (other of 23b); wherein the first, second, and third materials form a contiguous ("contiguous" defined as "1. Sharing a boundary or edge: TOUCHING.") article; and a rod (21) with a shaft portion (see Fig. 2), butt portion (end of rod that is gripped) and reel seat portion (generally where reel can be mounted); a first material surrounding the shaft (at 14b), a

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second material defining an aperture (23b), but does not disclose the accessory ring being rigid. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the accessory ring rigid, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because a rigid material would more assuredly prevent the penetration of a large hook from extending therethrough versus an elastic material and cause possible and dangerous exposure of the hook point. *In re Leshin*, 125 USPQ 416. Sokolik also does not disclose the securing member being a threaded member. Phelps discloses a first aperture (defined by 10) prevented from moving along the axis of the rod adjacent a reel seat (14AA) and rod butt (14A) by a threaded securing member (12). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Sokolik such that it is prevented from moving along the axis of the rod by a threaded securing member in view of Phelps in order to reliably maintain the position of the accessory ring adjacent the fishing reel so that the angler is provided with a convenient location to secure the hook.

10. Claims 1-9, 16, 17, 21, 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Pat. No. 11-346606 to Shoji et al. in view of Phelps 5,564,215.

Shoji et al. discloses an fishing accessory ring with a first aperture (1, 1a made of rubber); a second aperture (left occurrence of 2, 2a-c in Fig. 6); a third aperture (right occurrence of 2, 2a-c in Fig. 6); wherein the first, second, and third materials form a

contiguous ("contiguous" defined as "1. Sharing a boundary or edge: TOUCHING.") article, but does not disclose the accessory ring being rigid. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the accessory ring rigid, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, and because a rigid material would be more sturdy and difficult to break over an elastic material. *In re Leshin*, 125 USPQ 416.

Shoji et al. discloses a rod (see Fig. 1) with a shaft portion (7).

Shoji et al. also does not disclose the securing member being a threaded member. Phelps discloses a first aperture (defined by 10) prevented from moving along the axis of the rod adjacent a reel seat (14AA) and rod butt (14A) by a threaded securing member (12). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Shoji et al. such that it is prevented from moving along the axis of the rod by a threaded securing member in view of Phelps in order to reliably maintain the position of the accessory ring adjacent the fishing reel so that the angler is provided with a convenient location to secure the hook.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Byington 309,028 in view of Phelps 5,564,215 as applied to claim 2 above, and further in view of Hopkins 3,839,811.

Shoji et al. and Phelps do not disclose the second and third apertures being substantially circular in cross section. Hopkins discloses an aperture (18, 22) for retaining a hook (H) which is substantially circular in cross section (see Figs. 2, 6). It



would have been obvious to a person of ordinary skill in the art to modify the second and third apertures of Shoji et al. and Phelps such that they are substantially circular in cross section in view of Hopkins in order to provide apertures which fully encircle the hooks retained therein so as to assuredly prevent the hooks from easily disengaging.

### ***Response to Arguments***

12. Applicant's arguments filed 3/21/2007 have been fully considered but they are not persuasive.

In regard to applicant's argument that "...Lirette...the 'second aperture' does not extend from the 'first aperture' but instead from the waist band of the fighting harness...", the Examiner contends that the portion of the waist band (12) that extends from the first aperture (32) can comprise a portion of the first aperture and thus form a connection between the first and second apertures and thus meet the limitation that the second aperture extends from the first aperture.

In regard to applicant's argument that "Ferguson...a fishing rod support configured to bolt to the deck of a boat and not to a fishing accessory ring...engaged with a butt or reel seat portion of a fishing rod....", the Examiner contends that the fishing rod and accessory ring of the desired invention has not been recited in a manner which differentiates it from the fishing rod and accessory ring as disclosed by Ferguson.

In regard to applicant's argument that "Byington... 'accessory ring' is not configured to securely engage a portion of a butt portion or reel seat portion such that the accessory ring is prevented from movement forward along the rod's longitudinal axis

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by a threaded member...”, the Examiner contends that Byington is being modified by Phelps which discloses a threaded member (12A, 12B) that prevents movement of an accessory ring in either a forward or rearward direction along the axis of the fishing rod so as to keep the ring in one place. It would have been obvious to one of ordinary skill in the art to do so in order to maintain a taught connection between the hook and the line coming off the reel so as to prevent the hook from becoming easily dislodged from the accessory ring.

In regard to applicant's argument that “Sokolik...slidably adjustable on the pole length...”, the Examiner contends that Sokolik discloses slidable adjustment of the accessory ring but that the ring is intended to grip the pole at a certain rod location as well and that the Phelps patent was relied upon for its teaching of a threaded securing member that positively anchors the accessory ring to a single location on the rod.

In regard to applicant's argument that “Shoji...ring is separate D-ring...would not be sufficiently rigid to support a harness line...”, the Examiner contends that the claims do not recite any specific level of rigidity so as to positively define over the ring of Shoji.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ito 2003/0145509 discloses a fishing rod and accessory ring combination comprising a fishing rod shaft portion (1, 10) including a butt portion (2) and a reel seat portion (4); a rigid ring (metal ring 21) including a first aperture (21b) for engaging a portion of the reel seat portion; and a second aperture (26) adapted to engage an article of fishing tackle or hook (27, 28). Tsengas 5,160,257 discloses an accessory ring (150, 160) that engages a reel seat (24) and a reel tab (foot of reel). Clark, Jr. et al. 3,095,042 discloses a first ring (12), second ring (13), and a third ring (14).

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (571) 272-6885. The examiner can normally be reached on M-F, 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark  
Primary Examiner  
Art Unit 3643

DWA